

70
Summary Jurisdiction over Children (Ireland) Bill.

ARRANGEMENT OF CLAUSES.

Clauses.

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5. Summary trial with consent of young persons.
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SCHEDULE.

A

B I L L

TO

Amend the Summary Jurisdiction (Ireland) Acts so far as A.D. 1884.
they relate to Children and young Persons.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

5 1. This Act may be cited for all purposes as the Summary Jurisdiction over Children (Ireland) Act, 1884.

2. This Act shall extend to Ireland only.

3. This Act shall come into operation on first January one thousand eight hundred and eighty-five.

10 4. (1.) Where a child is charged before a court of summary jurisdiction with any indictable offence other than homicide, the court, if they think it expedient so to do, and if the parent or guardian of the child so charged, when informed by the court of his right to have the child tried by a jury, does not object to the
15 child being dealt with summarily, may deal summarily with the offence, and inflict the same description of punishment as might have been inflicted had the case been tried on indictment:

Summary trial of children for indictable offences unless objected to by parent or guardian.

Provided that—

20 (a.) A sentence of penal servitude shall not be passed, but imprisonment shall be substituted therefor; and

(b.) Where imprisonment is awarded the term shall not in any case exceed *one month*; and

(c.) Where a fine is awarded the amount shall not in any case exceed *forty shillings*; and

25 (d.) When the child is a male the court may, either in addition to or instead of any other punishment, adjudge the child to be, as soon as practicable, privately whipped with not more than *six strokes* of a birch rod by a constable, in the presence of an inspector or other officer of police of higher rank than

[Bill 75.]

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a constable, and also in the presence, if he desires to be present, of the parent or guardian of the child.

(2.) For the purpose of a proceeding under this section, the court of summary jurisdiction, at any time during the hearing of the case at which they become satisfied by the evidence that it is expedient to deal with the case summarily, shall cause the charge to be reduced into writing and read to the parent or guardian of the child, and then address a question to such parent or guardian to the following effect: "Do you desire the child to be tried by a jury, and object to the case being dealt with summarily?" with a statement, if the court think such statement desirable for the information of such parent or guardian, of the meaning of the case being dealt with summarily, and of the assizes or sessions (as the case may be) at which the child will be tried if tried by a jury.

(3.) Where the parent or guardian of a child is not present when the child is charged with an indictable offence before a court of summary jurisdiction, the court may, if they think it just so to do, remand the child for the purpose of causing notice to be served on such parent or guardian, with a view, so far as is practicable, of securing his attendance at the hearing of the charge, or the court may, if they think it expedient so to do, deal with the case summarily.

(4.) This section shall not prejudice the right of a court of summary jurisdiction to send a child to a reformatory or industrial school.

(5.) This section shall not render punishable for an offence any child who is not, in the opinion of the court before whom he is charged, above the age of seven years and of sufficient capacity to commit crime.

Summary
trial with
consent of
young
persons.

5. (1.) Where a young person is charged before a court of summary jurisdiction with any indictable offence specified in the schedule to this Act, the court, if they think it expedient so to do, having regard to the character and antecedents of the person charged, the nature of the offence, and all the circumstances of the case, and if the young person charged with the offence, when informed by the court of his right to be tried by a jury, consents to be dealt with summarily, may deal summarily with the offence, and in their discretion adjudge such person, if found guilty of the offence, either to pay a fine not exceeding ten pounds, or to be imprisoned, with or without hard labour, for any term not exceeding three months; and if the young person is a male, and, in the opinion of the court, under the age of fourteen years, the court, if they think it expedient so to do, may, either in substitution for or in addition to any other punishment under this Act, adjudge such

young person to be, as soon as practicable, privately whipped with not more than twelve strokes of a birch rod by a constable, in the presence of an inspector or other officer of police of higher rank than a constable, and also in the presence, if he desires to be present, of the parent or guardian of such young person.

(2.) For the purpose of a proceeding under this section, the court, at any time during the hearing of the case at which they become satisfied by the evidence that it is expedient to deal with the case summarily, shall cause the charge to be reduced into writing and read to the young person charged, and then address a question to him to the following effect: "Do you desire to be tried by a jury, or do you consent to the case being dealt with summarily?" with a statement, if the court think such statement desirable for the information of the young person to whom the question is addressed, of the meaning of the case being dealt with summarily, and of the assizes or sessions (as the case may be) at which he will be tried if tried by a jury.

(3.) This section shall not prejudice the right of a court of summary jurisdiction to send a young person to a reformatory or an industrial school.

6. A child on summary conviction for an offence punishable on summary conviction under this Act, or under any other Act, whether past or future, shall not be imprisoned for a longer period than *one month* nor fined a larger sum than *forty shillings*.

Restriction on punishment of child for summary offence.

7. If upon the hearing of a charge against children and young persons for an offence punishable on summary conviction under this Act, or under any other Act, whether past or future, the court of summary jurisdiction think that, though the charge is proved, the offence was in the particular case of so trifling a nature that it is inexpedient to inflict any punishment, or any other than a nominal punishment,—

Power of court to discharge accused children and young persons without punishment.

(1.) The court, without proceeding to conviction, may dismiss the information, and, if the court think fit, may order the person charged to pay such damages, not exceeding *forty shillings*, and such costs of the proceeding, or either of them, as the court think reasonable; or,

(2.) The court upon convicting the person charged may discharge him conditionally on his giving security, with or without sureties, to appear for sentence when called upon, or to be of good behaviour, and either without payment of damages and costs, or subject to the payment of such damages and costs, or either of them, as the court think reasonable.

A.D. 1884.

Definitions
for pur-
poses of the
Act.

8. In this Act the following expressions have the meanings herein-after respectively assigned to them; that is to say,

The expression "child" means a person who in the opinion of the court before whom he is brought is under the age of *twelve* years :

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The expression "young person" means a person who in the opinion of the court before whom he is brought is of the age of *twelve* years and under the age of *sixteen* years :

The expression "guardian," in relation to a child, includes any person who, in the opinion of the court having cognizance of any case in which a child is concerned, has for the time being the charge of or control over such child :

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The expression "court of summary jurisdiction" shall, in the police district of Dublin metropolis, be constituted of a divisional justice acting for the said district, and elsewhere in Ireland shall be constituted of one or more justices of the peace sitting in petty sessions.

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SCHEDULE.

A.D. 1884.

INDICTABLE OFFENCES WHICH CAN BE DEALT WITH SUMMARILY UNDER
THIS ACT.

Young Persons consenting.

- 5 1. Simple larceny.
2. Offences declared by any Act for the time being in force to be punishable as simple larceny
3. Larceny from or stealing from the person.
4. Larceny as a clerk or servant.
- 10 5. Embezzlement by a clerk or servant.
6. Receiving stolen goods.
7. Aiding, abetting, counselling, or procuring the commission of simple larceny, or of an offence declared by any Act for the time being in force to be punishable as simple larceny, or of larceny or stealing from the person, or
- 15 of larceny as a clerk or servant.
8. Attempt to commit simple larceny, or an offence declared by any Act for the time being in force to be punishable as simple larceny, or to commit larceny from or steal from the person, or to commit larceny as a clerk or servant
- 20 This Act shall apply to any of the following offences when alleged to have been committed by a young person in the manner as if such offence were included in the schedule; that is to say,
 - (1.) To any offence in relation to railways and railway carriages mentioned in sections thirty-two and thirty-three of the Act of the session of the
 - 25 twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter one hundred, intituled, "An Act to consolidate and amend the statute law of England and Ireland relating to offences against the person"; and
 - (2.) To any offence relating to railways mentioned in section thirty-five of the Act of the session of the twenty-fourth and twenty-fifth years of the
 - 30 reign of Her present Majesty, chapter ninety-seven, intituled "An Act to consolidate and amend the statute law of England and Ireland relating to malicious injuries to property"; and
 - (3.) To any indictable offence, either under the Post Office Laws or prosecuted by Her Majesty's Postmaster-General; and for the purpose of
 - 35 this provision the expression "Post Office Laws" has the same meaning as it has in the Act of the session of the seventh year of the reign of King William the Fourth and the first year of the reign of Her present Majesty, chapter thirty-six, intituled "An Act for consolidating the laws
 - 40 relative to offences against the Post Office of the United Kingdom, and for regulating the judicial administration of the Post Office Laws, and for explaining certain terms and expressions employed in those laws," and the Acts amending the same.

Summary Jurisdiction over Children (Ireland).

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B I L L

To amend the Summary Jurisdiction (Ireland) Acts so far as they relate to Children and young Persons.

(Presented and brought in by
Mr. Gibson, Sir Richard Waller, Mr. Bate,
and Mr. CORYN.)

Ordered, by The House of Commons, to be Printed,
7 February 1884.

LONG

TRUSTED IT WITH AND PHOTOGRAPHIC

To be published, either directly or through any publisher, being any of the following Agents on:

Messrs. Mackenzie and Co., 11, Great Queen Street, W.C., and
The Associated Press, Westminster;

Messrs. Lloyd's Brokerage, Ltd., 16, Bedford Street, Port Street,
and the Agents, Messrs. of London;

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[Ref. 75.]